



**CITY OF SUNNYVALE
REPORT
Planning Commission**

January 24, 2005

SUBJECT: **2004-0955 – Larry K. Yamaoka** [Applicant] **Misako and George Yamaoka** [Owner]: Application for related proposals on a 39,088 square-foot site located at **775 South Wolfe Road** in an R-3/PD (Medium-Density Residential) Zoning District. (APN: 211-05-008);

Resolution **General Plan Amendment** from Medium to Low-Medium Density Residential;

Introduction of an Ordinance **Rezone** from R-3/PD (Medium Density Residential /Planned Development) Zoning District to R-2/PD (Low-Medium Density Residential/Planned Development) Zoning District;

Motion **Special Development Permit** to allow the construction of eight single-family homes, and

Motion **Tentative Map** to subdivide one lot into eight individual lots and one common lot.

REPORT IN BRIEF

Existing Site Conditions Vacant land

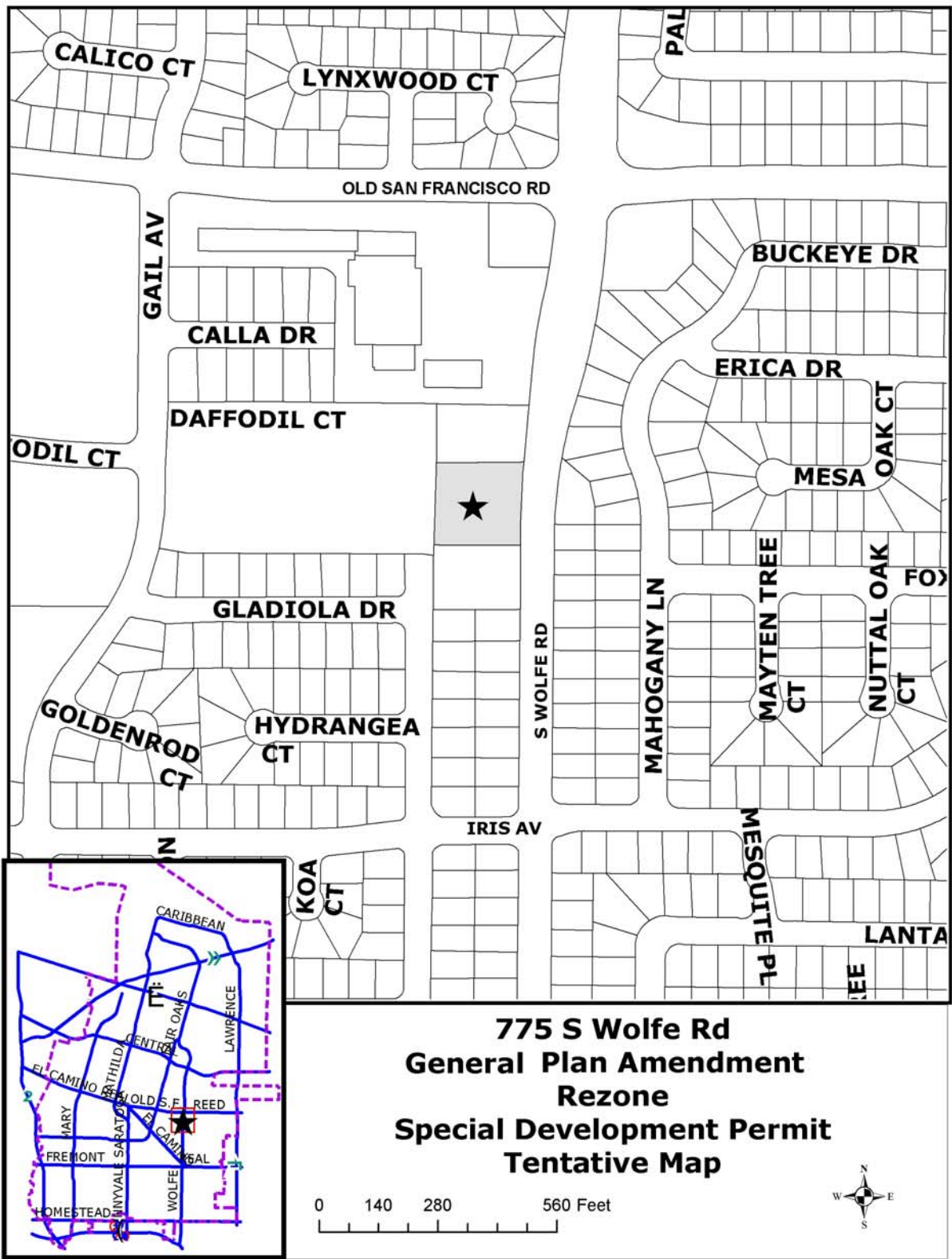
Surrounding Land Uses

North	Multi-family residential
South	Single-family residential
East	Across Wolfe Road, single-family residential
West	Multi-family residential

Issues Circulation
 Street Presence
 Noise
 Deviations from Code

Environmental Status A Mitigated Negative Declaration has been prepared in compliance with California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve alternate design with Conditions



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Medium Density Residential	Low-Medium Density Residential	Per Council Approval
Zoning District	R-3/PD	R-2/PD	Per Govt. Code req. and Council Approval
Lot Size (s.f.)	39,594 s.f. (0.90 ac.)	4,000-4,573	3,600/unit min.
Gross Floor Area/unit (s.f.)	N/A	2,437-2,481	45% of lot max. w/o PC Approval
Lot Coverage (%)	N/A	32%-36%	40% max.
Floor Area Ratio (FAR)	N/A	53%-61%	45% max. w/o PC Approval
No. of Units	N/A	8	10 max.
Density (units/acre)	N/A	9 du/ac.	12 du/ac. max.
Meets 75% min?	N/A	Yes (75%)	75% min.
Bedrooms/Unit	N/A	Plan 1: 3 bedrm. Plan 2: 4 bedrm.	---
Unit Sizes (s.f.)	N/A	Plan 1: 2,437 Plan 2: 2,481	---
Building Height (ft.)	N/A	28	30 max.
No. of Stories	N/A	2	2 max.
Setbacks (First/Second Facing Property)			
★ • Front	N/A	1 st :11-23 ft. 2 nd : 18-30 ft.	1 st :20, 2 nd :25 min.
★ • Left Side	N/A	1 st : 5-10 ft. 2 nd : 5-13 ft.	1 st :4, 2 nd :7 min.
★ • Right Side	N/A	1 st : 5-11 ft. 2 nd : 5-11 ft.	1 st :8, 2 nd :11 min.
★ • Rear	N/A	18-21 ft.	20 min.

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
Landscaping (sq. ft.)			
• Total Landscaping	39,594	17,845	6,935 min.
• Landscaping/Unit	N/A	2,230	800-915 min.
• Water Conserving Plants (%)	N/A	70%	70% min.
Parking			
• Total Spaces	N/A	33	32 min.
• Standard Spaces	N/A	17	16 min.
• Covered Spaces	N/A	16	16 min.

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

ANALYSIS

Description of Proposed Project

The applicant has proposed developing the currently vacant parcel with eight single-family homes on private lots with a common lot for the private street. The application involves changing the current R-3/PD zoning to R-2/PD to allow the project to meet density requirements. Rezoning to a lower density is allowed by the California Government Code only if the loss of potential housing on the site is addressed elsewhere within the City, resulting in no net loss of housing.

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing / Decision	Date
2004-0759	General Plan Amendment Initiation to change the Medium Density Residential Zoning to Low-Medium Density Residential.	City Council / Approved	11/09/2004
2001-0404	Special Development Permit to allow a 20-unit multi-family apartment building.	City Council / Approved	11/13/2001
2001-0403	Re-Zone to allow a R-3/PD.	City Council / Approved	11/13/2001

The project site currently has a General Plan designation of Residential Medium Density and is zoned R-3/PD. The adjacent properties to the north and west of the site are designated Medium Density Residential. The adjacent property to the south of the site and the property east of the site across South Wolfe Road are designated Low Density (R-0). The front yards of the single family homes south of the project site and to the east across South Wolfe Avenue face Wolfe Road.

The subject lot was historically used for agricultural crops and is currently unimproved. The site was re-zoned in 2001 from R-3 to R-3/PD to allow for construction of a 20-unit apartment complex; however, construction never occurred.

The applicant has requested that the City rezone the property to develop the site with 8 single family homes. The applicant has indicated that the lower density would allow for a transition between the neighboring Low Density Residential (R-0) properties to the south and east of the site, and the adjacent Medium Density Residential (R-3) properties to the north and west of the site. The applicant noted that the project would allow for development of home-ownership units as opposed to the previously approved rental units.

Environmental Review

A Mitigated Negative Declaration has been prepared in compliance with the California Environmental Quality Act provisions and City Guidelines. An initial study has determined that the proposed project would not create any significant environmental impacts with implementation of the recommended interior and exterior mitigation measures for traffic noise from South Wolfe Road (see Attachment 3, Initial Study). The mitigations include a solid, 6 foot high fence for the rear yard area and higher grade windows to reduce noise to the interior of the homes.

General Plan Amendment

Change Under Consideration: The applicant has proposed amending the General Plan from a Medium Density Residential to a Low-Medium Density Residential.

Discussion of General Plan Amendment: Sunnyvale Municipal Code Section 19.92.020 authorizes only the City Council to initiate proceedings for adoption of an amendment to the General Plan. On November 9, 2004, the City Council reviewed and approved a request to initiate a General Plan Amendment.

A survey of the existing General Plan policies indicates that the issues regarding this General Plan Amendment request are: the effect that the potential amendment and related subsequent zoning district change will have on the development pattern

of the existing neighborhood, the number of housing units to be developed, and the development of home-ownership units.

Development Pattern: The current General Plan designation would allow 16 to 21 units. The slightly higher density would help the City achieve its goal of more housing to offset the housing-jobs imbalance; however, the previously approved 20-unit apartment complex would result in an increase in rental units, which runs counter to the City's goal of promoting home ownership.

When an actual General Plan Amendment is considered there is adequate control by the City Council to restrict the zoning in order to achieve a lot pattern consistent with the existing neighborhood. Applying a different zoning designation to the 39,088 square foot lot may allow for transition between the Low Density and Medium Density surrounding properties.

Number of Units: Given the jobs-housing imbalance in Sunnyvale, the City usually does not encourage lowering permitted densities, as it results in fewer housing units; however, other sites within the city have been converted or approved for conversion to housing, resulting in the City being on target for development of housing goals.

This density category provides transition between Low Density and Medium Density sites consistent with the General Plan policy to use density to transition between uses.

Further, this project proposes the development of vacant land. The City's Housing Element anticipated that all remaining vacant land would be developed with moderate or above-moderate income housing.

Rezoning

Change Under Consideration: The applicant has proposed amending the Zoning designation from a from an R-3/PD (Medium Density Residential / Planned Development) Zoning District to an R-2/PD (Low-Medium Density Residential / Planned Development).

Discussion of Rezoning: The primary issue in rezoning the property is the reduction in number of housing units, which will result in a net loss of housing for the City. The California Government Code requires all cities to provide their "fair share" of housing to meet the state-wide need. The State only allows rezoning to lower densities if the loss of housing is addressed elsewhere within the City, resulting in no net loss of housing. Since the adoption of the City's Housing Element in 2001, the General Plan has been amended eleven times, for a net increase in 350 homes. It should be noted that the 2001 Housing Element provided for a total of 6,912 new homes, which substantially exceeds the 3,836 units needed to meet Sunnyvale's share of regional housing needs for the 1999-2006 period.

This application is the first request received since 2001 to rezone property to a lower density.

Site Category	2001 Housing Element	Change
Vacant	503	+36
Industrial to Residential	4,876	+42
Downtown Specific Plan	642	+92
Underdeveloped	891	+35
Commercial to Residential	0	+145
<i>Proposed Project</i>	<i>20</i>	<i>-8</i>
Total Available	6,912	+ 347

Based on this assessment, staff has determined that the proposed project meets the required findings per California Gov. Code 65863(b) which require the plan to be consistent with the adopted general plan, including the housing element, and to determine that the remaining sites identified in the housing element are adequate to accommodate Sunnyvale's share of the regional housing need such that there is "no net loss of residential unit capacity".

Given the size of the lot, the current level of density would result in the units being attached. The Planned Development (PD) Combining District may be needed to allow for deviations from zoning requirements (e.g. lot size, width).

The requested R-2 Zoning Designation is typically a district used for development of townhouses and duplexes, although single-family homes are allowed. It allows a maximum density of 1 unit per 3,600 square feet. Applying the R-2 standards would allow between 8 and 10 dwelling units to be constructed on the site. (City policy dictates that a site should meet at least 75% of the maximum allowable density.) The Planned Development (PD) Combining District is requested by the applicant to allow for deviations from zoning requirements. The City may impose more restrictive standards with a PD combining district. Based on a review of the site layout, it appears that the site could hold a maximum of 8 detached lots. Constructing developments of fewer than 9 units removes the requirement for any of the houses to be designated as affordable housing units.

There are two other Low-Medium Density zoning designations that could be allowed under Low-Medium Density. The R-1.5 allows for a maximum density of 1 unit per 4,200 square feet, which would allow for between 6 to 9 units. Another compatible zoning designation with a General Plan Low-Medium designation would be R-1.7/PD. This zoning designation allows for a maximum density of 1 unit per 2,600 square feet, which would allow for 11 to 15 units; however, R-1.7/PD requires a minimum 2-acre development size which the project site does not meet.

Special Development Permit

Site Layout: This project has involved several iterations of site plan layout to address staff concerns for noise mitigation, street presence and site circulation.

The proposed layout has one private street, running perpendicular to South Wolfe Road, with four homes on either side. All eight homes face and have garage access off of the private street. The proposed layout provides for two side yards facing South Wolfe Road. This allows for both some degree of street presence as well as the required 6 foot high rear yard fences to provide the required mitigations to reduce the exterior noise from South Wolfe Road (Refer to Site Plan, Attachment D).

Staff is concerned that the proposed layout does not allow for adequate circulation of large vehicles on the site and is recommending the applicant's alternative proposal which include a road spur located between Lot 6 and Lot 7 (Refer to Site Plan, Attachment E).

Stormwater Management: The subject site is less than 1 acre and therefore does not trigger the requirement for a stormwater management plan. The proposed site layout meets landscaping requirements, which addresses in part the need for on-site stormwater infiltration.

Easements and Undergrounding: The Sunnyvale Municipal Code requires all utilities and communication services associated with new development, redevelopment, subdivision or change in use to be placed underground. The project will be required to underground all newly installed utilities as well as the existing utilities along Wolfe Road in the public right-of-way.

Architecture: The applicant has proposed a standard builder's home with a Spanish influence. Staff has noted the need for an attractive street presence along South Wolfe Road to blend with the existing single family homes and to contribute to the streetscape. The architecture does not meet the standard design guidelines for second story setbacks, resulting in a boxier shape to the buildings. The applicant has addressed this issue in part by providing for variations in depth along the front of the homes.

If the boxier shape is as issue to the Planning Commission, as discussed during the study session, Commissioners may request greater setbacks for the second floor. Staff is not formally recommending the increased setbacks as a condition of approval as the architecture is compatible with recent developments in the City. However, Commissioners may make the finding that the increased setbacks would allow for a better integration of the structures into the neighboring single-story homes south and east of the project site, in conjunction with the following policy action statement.

Land Use & Transportation Element	Comments
Action Statement N1.4.1 – <i>Require infill development to complement the character of the residential neighborhood.</i>	Greater second floor setbacks will provide architecture that is more complementary to the adjacent single family homes.

Landscaping: The proposed design meets the 20% requirements for landscaped area. The solid rear yard fence allows the projects to meet the Noise mitigation requirements for exterior open space.

Parking/Circulation: The project provides for the required off-street parking for single family homes and one common parking space on an easement between Lot 2 and Lot 3. No other street parking is provided along the private street and no street parking will be available along the frontage with Wolfe Road. In the case of private streets not providing guest parking, it is standard policy to require 0.25 parking spaces per unit. This would result in a requirement to provide 2 guest parking spaces along the private street.

The applicant's preferred layout of only one private street with no turn-out spur limits circulation on the site as it will require all large service vehicle to exiting the site by reversing back onto South Wolfe Road. Transportation staff has indicated that this design is feasible. While Fire Trucks would need to reverse out onto South Wolfe Road, staff anticipates that this should be an infrequent occurrence. The Solid Waste Specialist has indicated that the applicant's preferred layout, while permissible, will restrict access for solid waste collection vehicles and require the home owners to wheel their garbage and recycling carts out to South Wolfe Road for the weekly pick up service. For Lots 4 and 5, this distance is approximately 185 feet. Staff is concerned that this option will be very inconvenient for residents and result in the 24 garbage and recycling bins having a negative impact on Wolfe Road.

The preferred layout for staff is the second option provided by the applicant as it provides for an on-site turn-around. This design will allow solid waste vehicles to access the site for the weekly pickups. Staff recommends that the turn-around spur be "grass-crete", which will provide enough stability to allow for large vehicles to use the turn-out but will maintain an appearance of greater open space for the development (See Attachment B, Conditions 10A and 17C).

The applicant has requested a road width of 21 feet, which is a revision to the submitted plans. The intent is to provide a total right-of-way of 25 feet, which will include a 4 foot sidewalk, a roll curb, and 20 foot street.

The following Guidelines were considered in analysis of the project parking and circulation.

Land Use and Transportation Element	Comments
Action Statement C3.1.3 – <i>Require roadway and signal improvement for development projects to minimize decline of existing levels of service.</i>	Requiring large service vehicles to back out onto South Wolfe Road will provide temporary congestion on the street.

Tentative Map

Description of Tentative Map: The tentative Map divides the existing site into 8 lots and one common lot to be used for the private street. The proposed lot sizes are compatible with minimum lot area per dwelling unit requirements. The Map includes one parking space to be located between Lot 2 and Lot 3 on a shared easement.

Conclusion

Compliance with Development Standards/Guidelines: The project proposes several minor deviations from the Municipal Code. The proposed deviations are as follows:

Proposed Deviation from Code or Practice	Comment
The height of buildings constructed in any multiple family residential zoning district within 75 ft. of a property line of single-family residential zoning district are not to exceed 20 ft. if existing buildings on the adjacent lot are one-story. The proposed structures are 28 feet high and located 18 feet off the property line.	Staff supports this deviation. The adjacent lot is very large and could easily be redeveloped with 2-story family homes.
Several of the lots do not meet minimum setbacks for the first story front and back yards. Lot 5 does not meet total side yard setbacks. None of the lots meet the second story setback requirements.	The setbacks seem appropriate for the entire development as a whole. The neighboring lot to the north of the site has an existing two-story apartment building.
The proposed sidewalk is only 4 feet. City Code requires 5 feet width for a public sidewalk; however, Americans with Disabilities (ADA) legislation only requires 4 feet sidewalks.	The 4-feet sidewalk is therefore found by staff to be adequate for a private street.

Proposed Deviation from Code or Practice	Comment
The homes on Lots 1 and 8 have structures within the <i>Vision Triangle</i> (as measured 40 feet along the property line and along the private street). This restricts visibility for cars entering and leaving the site. City Code requires all structures built within the Vision Triangle not to exceed three feet in height.	The deviation for the Vision Triangle generally requires a Variance, but may be reviewed as a setback issue in the context of this project. The incursion into the Vision Triangle may be addressed by changing the site layout. For example, exchanging the design for Lot 6 (1B) with Lot 8 (2B).
Floor Area Ratios (FAR) exceeds the threshold 45% FAR for single family dwelling in an R-2 Zoning district. Other policy (for small lots less than or equal to 4,200 square feet) is that the entire site, including private drives, shall not exceed 50% FAR for the entire site.	The 45% FAR is not a Code requirement, but triggers the need for Planning Commission review and approval. The project meets the small lot policy as the FAR for the entire site is just under 50%.

These issues can be addressed through the existing Planned Development combining district, which allows for discretionary approval to deviate from the City Code.

Expected Impact on the Surroundings: The proposed private street is expected to result in minor impacts to the traffic pattern on South Wolfe Road. However, the proposed development has been addressed in the General Plan and the project has been designed to minimize the impact. Traffic impacts will be minimized by requiring the staff recommended alternative site layout which provides the turn-around spur on the site (See Attachment B, Condition 17C, and Attachment E). This will allow for on-site collection of solid waste so the residents will not leave their garbage and recycling bins on South Wolfe Road.

Staff Discussion:

General Plan Amendment (GPA): Staff recommends approval of the GPA to re-zone the subject site from Medium Density Residential / Planned Development (R-3/PD) to Low-Medium Density Residential / Planned Development (R-2/PD). Staff believes the proposed lower density housing has merit as it will not restrict the City's ability to meet the housing requirement and allows for more owner-occupied housing, and compatible with neighboring uses and the policies and goals of the General Plan. Further, the change allows for a transition between the neighboring Medium (R-3) and Low Density (R-0) Residential properties.

Special Development Permit: Staff recommends the applicant's alternative proposal which includes a turn-around spur on the private road (See Attachment B, Condition 17C, and Attachment E). This will enhance accessibility and circulation

on the site and minimize the impact on South Wolfe Road. Some minor modifications to the architecture and site plan are also recommended (See Attachment B, Condition 17B).

Parking: Staff recommends including an additional guest parking space along the private street. The impact on the front yards of the properties may be reduced by designing parallel spaces (See Attachment B, Condition 17B).

Home-Ownership: The proposed rezoning of the property allows for the development of single-family homes rather than apartment units, which are more likely to be developed and sold as private homes, supporting the City's goal of increasing home ownership units; however, City policy also directs that higher density housing be developed along major transportation corridors and in proximity to commercial sites. The project site meets both criteria. This proposed development would result in eight private units on the site.

Tentative Map: Staff recommends the proposed parking easement to be included as part of the common lot as it will clarify access rights and responsibility for maintenance. As addressed in the parking discussion, staff recommends the currently proposed one guest parking space be increased to two spaces (See Attachment B, Condition 19.C).

Fiscal Impact

The project will require three types of impact fees to be paid to mitigate the impact of construction of the proposed eight single family homes:

- 1) Transportation Impact Fee of approximately \$14,440.24 (\$1,805.03 per dwelling unit) to fund traffic related projects to be undertaken to mitigate the impact of additional use of transportation facilities.
- 2) Park Dedication Fee of approximately \$59,895.04 (\$7,486.88 per dwelling unit in an R-2 Zone) to fund neighborhood park facilities to mitigate the impact of additional users.
- 3) School Impact Fees to provide financial support to the Sunnyvale School District to mitigate the impact of additional students on the neighborhood schools. The applicant will need to contact the Sunnyvale School District to confirm the actual amount of the School Impact Fees.

No other fiscal impacts other than normal fees and taxes are expected.

Findings, General Plan Goals and Conditions of Approval

Staff was able to make the required Findings based on the justifications for the Special Development Permit.

- Findings and General Plan Goals are located in Attachment A.
- Conditions of Approval are located in Attachment B.

Public Contact

No letters have been received regarding the proposed project.

Notice of Negative Declaration and Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site • 523 notices mailed to the property owners and residents within 300 ft. of the project site 	<ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Website • Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • City of Sunnyvale's Website • Recorded for SunDial

Alternatives

Recommend to the City Council:

1. Adopt the Mitigated Negative Declaration, and amend the General Plan from Medium to Low-Medium Density Residential, and introduce an Ordinance to Rezone 775 South Wolfe Road from R-3/PD to R-2/PD, and approve the Special Development Permit and Tentative Map as requested by the applicant with attached conditions.
2. Adopt the Mitigated Negative Declaration, and amend the General Plan from Medium to Low-Medium Density Residential, and introduce an Ordinance to Rezone 775 South Wolfe Road from R-3/PD to R-2/PD, and approve alternative #2 of proposed site plan for the Special Development Permit and approve the Tentative Map with attached conditions.
3. Adopt the Mitigated Negative Declaration, and amend the General Plan from Medium to Low-Medium Density Residential, and introduce an Ordinance to Rezone 775 South Wolfe Road from R-3/PD to R-2/PD, and approve the Special Development Permit and Tentative Map with modified conditions.

4. Adopt the Mitigated Negative Declaration, and amend the General Plan from Medium to Low-Medium Density Residential, and do not introduce an Ordinance to Rezone 775 South Wolfe Road, and deny the Special Development Permit and Tentative Map.
5. Do not adopt the Mitigated Negative Declaration and direct staff as to where additional environmental analysis is required.

Recommendation

Recommend Alternative 2.

Prepared by:

Jamie McLeod
Project Planner

Reviewed by:

Gerri Caruso
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Mitigated Negative Declaration
- D. Proposed Site and Architectural Plans
- E. Alternative Site Plans
- F. Letter from the Applicant
- G. Draft Rezoning Ordinance

Recommended Findings – General Plan Amendment

The following General Plan goals, policies and action statements in the Land Use and Transportation Element relate to this proposed General Plan Amendment request:

Policy N1.1

Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.

Action Statement N1.1.1

Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.

Policy N1.2

Require new development to be compatible with the neighborhood, adjacent land uses and the transportation system.

Action Statement N1.2.1

Integrate new development and redevelopment into existing neighborhoods.

Policy C2.2

Encourage the development of ownership housing to maintain a majority of housing in the city for ownership choice.

Policy C2.3

Maintain lower density residential development areas where feasible.

Action Statement C2.3.2

Promote and preserve single-family detached housing where appropriate and in existing single-family neighborhoods.

Policy C2.4

Determine appropriate density for housing based on site planning opportunities and proximity to services.

Action Statement C2.4.1

Locate higher density housing with easy access to transportation corridors, rail transit stations, bus transit corridor stops, commercial services, and jobs.

Action Statement C2.4.2

Locate lower density housing in proximity to existing lower density housing.

The proposed project is desirable in that it complies with the City's Housing Element and meets the requirements of Gov. Code 65863(b).

(1) The reduction is consistent with the adopted general plan, including the housing element.

(2) The remaining sites identified in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584.

Recommended Findings - Special Development Permit

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project provides additional housing in an area that provides an appropriate transition between single family and multi-family developments. The proposed project also meets the Housing Element's anticipated goal of developing vacant land with moderate and moderate-high priced homes.
2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as the proposed project is designed to provide appropriate design features and streetscape to provide a visual balance between the low and medium density residential developments surrounding the site.

Recommended Findings - Tentative Map

Approval of a Tentative Map requires a finding to be made and any of eight other findings not to be made.

A. If the following finding can be made, the Planning Commission should recommend approval of the Tentative Map.

1. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan and any applicable specific plan.

B. However, if any of the following findings can be made, the Planning Commission should recommend denial of the Tentative Map.

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.
3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
8. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code

Staff was able to make the first finding (A.1) and was not able to make any of the second set of findings (B.1-8), and recommends approval of the Tentative Map.

Recommended Conditions of Approval - Special Development Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development, major changes may be approved at a public hearing.
- B. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved by staff level by the Director of Community Development.
- C. The Conditions of Approval shall be reproduced on the front page of the plans submitted for a Building permit for this project.
- D. The Special Development shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.

2. ENVIRONMENTAL MITIGATION MEASURES

- A. In addition to complying with applicable City Codes, Ordinances, and Resolutions, the following mitigation measures are incorporated into the project to minimize the identified potential environmental impacts:

Interior Noise Levels

The following mitigation measures are proposed:

WHAT: To meet the City's DNL 45 dB indoor noise goal, it will be necessary to use sound-rated windows at the units along Wolfe Road.

- 1) Maintain closed windows at all times for windows within 110 feet of the centerline of Wolfe Road that have a direct or side

view of the road. Some type of mechanical ventilation shall be required.

- 2) All windows that have a view to Wolfe Road beyond any barrier (such as the front of the house on Lot 1) shall require installation of windows rated minimum Sound Transmission Class (STC) 24 at noise impacted spaces. The windows and doors shall be installed in an acoustically-effective manner, including attaining an air-tight seal when in the closed position and the window frames caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration. Exterior doors must seal air-tight around the full perimeter when in the closed position.

WHEN: All improvements shall be completed prior to occupancy.

WHO: The developer is responsible for completing all of the above mitigation measures.

HOW: These measures shall be clearly marked and demonstrated in the plans submitted for building permits.

Exterior Noise Levels

The following mitigation measures are proposed:

WHAT: To meet the City's DNL 60 dB outdoor noise goal, it will be necessary to install an acoustically-effective barrier for all side or rear yards that front Wolfe Road.

- 1) Install a six-foot high solid sound fence which is air-tight. The barrier can be constructed of wood, concrete, stucco, masonry, earth berm or a combination thereof and must have a minimum surface weight of 2.5 pounds per square foot. If wood fencing is used, homogeneous sheet materials are preferable to conventional wood fencing as the latter has a tendency to warp and form openings with age.

WHEN: All improvements shall be completed prior to occupancy.

WHO: The developer is responsible for completing all of the above mitigation measures.

HOW: These measures shall be clearly marked and demonstrated in the plans submitted for building permits.

- B. Submit plans for approval by the Director of Community Development showing the design and method by which continuous or recurrent noise will be buffered.

- C. Final construction drawings shall incorporate all noise mitigation measures as set forth under "Mitigation Measures."
- D. Provisions of Title 25 of the California Administrative Code shall be satisfied with dependence on mechanical ventilation.
- E. Final plans shall bear the acoustical consultant's signature.
- F. Acoustical tests shall be performed by the developer to demonstrate that an interior Ldn scale (day and night average noise level) of 45 dBA is met on the finished units. Such test results shall be furnished to the Director of Community Development prior to occupancy of the units.

3. ACCESSORY LIVING UNIT

- A. The proposed "Casita" shall not be used as an Accessory Living Unit.

4. CC&R's (CONDITIONS, COVENANTS AND RESTRICTIONS)

- A. Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney.
- B. The developer/Owner shall create a Homeowner's Association that comports with the state law requirements for Common Interest Developments. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to approval by the City Attorney and Director of Community Development prior to approval of the Final Map. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions: maintenance of the private road and spur.
- C. Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
- D. The homeowners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
- E. The developer shall maintain all utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a homeowners association, following sale of at least 75% of the units, whichever comes first.
- F. Garage and carport spaces shall be maintained at all times so as to allow for parking of vehicles.
- G. Garage spaces shall be maintained at all times so as to allow parking of two automobiles.

H. The CC&Rs shall contain the following language:

- a) "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each Lot in the Project.
- b) It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
- c) It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
- d) It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.

- e) No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
- f) Third-Party Beneficiary. The rights of the City of Sunnyvale pursuant to this Article will be the rights of an intended third party beneficiary of a contract, as provided in Section 1559 of the California Civil Code, except that there will be no right of Declarant, the Association, or any Owner(s) to rescind the contract involved so as to defeat such rights of the City of Sunnyvale.
- g) Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."

5. DESIGN/EXTERIOR COLORS AND MATERIALS

- A. Final exterior building materials and color scheme are subject to review and approval of the Planning Commission/Director of Community Development prior to issuance of a building permit.
- B. Roof material shall be 50-year dimensional composition shingle, or as approved by the Director of Community Development.
- C. The revised site layout shall be used, as detailed in Attachment E.
- D. The following are approved deviations from the Municipal Code:
 - a) The height of buildings shall be up to 28 feet high as measured from the nearest curb.
 - b) The proposed sidewalk shall be at least 4 feet in width.
 - c) Buildings may be located slightly within the Vision Triangle as long as every effort has been made by the applicant to redesign the units such that the infringement is minimized.
 - d) A Floor Area Ratio (FAR) of up to 50% shall be met for the entire site (including the common lot areas) shall be allowed on the site.
 - e) First story front yard setbacks must be at least 11 feet, and must allow at least 18 feet for the uncovered parking area.
 - f) Second story front yard setbacks must be at least 18 feet.
 - g) Second story side yard setbacks must be at least 5 feet on one side and a total of 11 feet.
 - h) Second story rear yard setbacks must be at least 18 feet.

- E. The final design must demonstrate a variation in architecture among the homes.

6. EASEMENTS AND DEDICATIONS

- A. Dedicate parking easement, located between Lot 2 and Lot 3, prior to issuance of a Building Permit or Final Map
- B. Dedicate water main easements for the fire hydrant to be located at or near the end of the private street. Install these facilities per Department of Public Works requirements.

7. EXTERIOR EQUIPMENT

- A. Individual air conditioning units shall be screened with architecture or landscaping features.

8. FEES

- A. Pay Transportation Impact fee estimated at \$14,440.24 prior to issuance of a Building Permit. (SMC 3.50)
- B. Pay Park Dedication fee estimated at \$59,895.04, prior to approval of the Final Map or Parcel Map. (SMC 18.10)
- C. Pay School Impact fee to the Sunnyvale School District prior to issuance of a Building Permit.

9. FENCES

- A. Design and location of any proposed fencing and/or walls are subject to the review and approval by the Director of Community Development.
- B. Such fences may extend along side property lines, but do not extend beyond the front line of the main building on each lot.
- C. For front yard fences in residential areas, open decorative type fences, such as picket, post and rail are preferred.
- D. Chain link and barbed wire fences are not allowed in residential areas.
- E. Only fences, hedges and shrubs or other natural objects 3 feet or less in height may be located within a "vision triangle" (For definition, refer to Vision Triangle brochure or SMC 19.12.040(16), SMC 19.12.050 (12))

10. LANDSCAPING

- A. Grass-crete paving to be installed in the proposed road spur to allow for a turn-around point for large service vehicles.
- B. The landscape plan shall including street trees and shall be submitted and approved per the City Arborist.

- C. All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition.
- D. Provide trees at minimum 30 feet intervals along side and rear property lines, except where mature trees are located immediately adjoining on neighboring property.
- E. Of new trees installed, 10% shall be 24-inch box size or larger and no tree shall be less than 15-gallon size.
- F. Any “protected trees”, (as defined in SMC 19.94) approved for removal, shall be replaced with a specimen tree of at least 36-inch box size.
- G. At the expense of the subdivider, City staff shall install required street trees of a species determined by the Public Works Department. Obtain approval of a detailed landscape and irrigation plan from the Director of Community Development (SMC 19.38.070) prior to issuance of a Building Permit.
- H. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.

11. TREE PRESERVATION

- A. If allowed by the final approved site layout, preserve all Protected Trees (as defined in SMC 19.94) and obtain an approved tree protection plan from the Director of Community Development prior to issuance of a Demolition or Building Permit and prior to any work being done on the site.

12. LIGHTING

- A. Prior to issuance of a Building Permit submit an exterior lighting plan, including fixture and pole designs, for approval by the Director of Community Development. Driveway and parking area lights shall include the following:
- B. Sodium vapor (of illumination with an equivalent energy savings).
- C. Pole heights to be uniform and compatible with the area, including the adjacent residential areas. Light standards shall not exceed 8 feet on the interior of the project and 8 feet in height on the periphery of the project near residential uses.
- D. Lights shall have shields to prevent glare onto adjacent residential properties.
- E. Prior to issuance of a Building Permit submit a contour photometric plan for approval by the Director of Community Development. The

plan shall meet the specifications noted in the Standard Development Requirements.

- F. Pole heights not to exceed 8 feet.
- G. Installation of lights at a minimum of 50 feet intervals along all private streets.
- H. Out-of door loudspeakers shall be prohibited.

13. ON-SITE AMENITIES

- A. Swimming pools, pool equipment structures, play equipment and other accessory structures, except as otherwise subject to Planning Commission review, may be allowed by the Director of Community Development subject to approval of design, location and colors.

14. STREETS

PRIVATE STREETS

- A. Dedicate private streets as emergency vehicle ingress-egress easements.

NEW STREETS

- B. The common lot shall be assigned a private street name in accordance with the official Street Name System, as selected by the Community Development Department.

15. RECYCLING AND SOLID WASTE

- A. Remove all debris, structures, area light poles, and paving from the site prior to commencement of new construction.

16. RIGHT-OF-WAY IMPROVEMENTS

- A. Obtain a Development Permit from the Department of Public Works for improvements.
- B. Curbs, gutters, sidewalks, streets, utilities, traffic control signs, electroliers (underground wiring) shall be designed, constructed and/or installed in accordance with City standards prior to occupancy. Plans shall be approved by then Department of Public Works.

17. TRAFFIC/ROAD IMPROVEMENTS

- A. Approval of detailed street improvements plan shall be obtained from Public Works and bonds posted prior to issuance of a Building Permit.
- B. Provide at least two (2) public parking spaces along the private street.

- C. Proved a turn-around spur off of the private street between Lot 6 and Lot 7 to facilitate on-site circulation for large service vehicles.

18. UNDERGROUND UTILITIES

- A. All proposed utilities shall be undergrounded.
- B. All overhead utilities on South Wolfe Road along the project frontage shall be undergrounded.
- C. Applicant shall provide a copy of an agreement with affected utility companies for undergrounding of existing overhead utilities which are on-site or within adjoining rights-of-way prior to issuance of a Building Permit or a deposit in an amount sufficient to cover the cost of undergrounding shall be made with the City.

19. TENTATIVE MAP CONDITIONS

- A. Full development fees shall be paid for each project parcel or lot shown on Final Tract Map and the fees shall be calculated in accordance with City Resolutions current at the time of payment.
- B. Comply with all applicable code requirements as noted in the Standard Development Requirements.
- C. Include the guest parking and turn-around spur in the common lot area.